



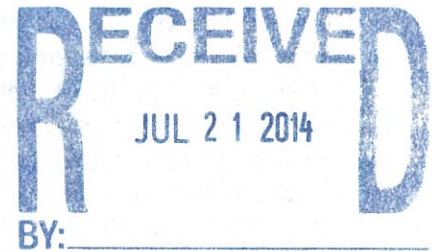
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July 16, 2014

Mr. Carl Nadela, AICP, Regional Planner
Los Angeles County Department of Regional Planning
320 W. Temple Street, Room 1356
Los Angeles, CA 90012
Email: tnc@planning.lacounty.gov



Subject: Comments on the Notice of Preparation of a Programmatic Environmental Impact Report for the Los Angeles County Antelope Valley Areawide General Plan Update, Los Angeles County

Dear Mr. Nadela:

The California Department of Fish and Wildlife (Department) has reviewed the above-referenced Notice of Preparation (NOP) for the comprehensive update of the Los Angeles County Antelope Valley Areawide General Plan Programmatic Environmental Impact Report (DPEIR) (project), which is part of the Los Angeles County General Plan.

The following statements and comments have been prepared pursuant to the Department's authority as Trustee Agency with jurisdiction over natural resources affected by the project (California Environmental Quality Act, [CEQA] Guidelines § 15386) and pursuant to our authority as a Responsible Agency under CEQA Guidelines section 15381 over those aspects of the proposed project that come under the purview of the California Endangered Species Act (Fish and Game Code § 2050 *et seq.*) and Fish and Game Code section 1600 *et seq.*

The County of Los Angeles (County) will be the Lead Agency for the project which is part of the Los Angeles County General Plan. The project includes goals, policies, implementing programs and ordinances that will be implemented to protect important ecological and agricultural resources and preserve the rural character in the Antelope Valley communities, while accommodating subsequent projects that will facilitate new housing and employment opportunities in appropriate, clearly defined, specific areas of the Antelope Valley. The project will replace portions of the existing Antelope Valley Areawide General Plan adopted in 1986.

The 1,800 square mile project planning area (planning area) is in the unincorporated area of the Antelope Valley in Los Angeles County and includes over two dozen communities. The planning area is located in the northern part of Los Angeles County, stretching from the Ventura County, Kern County, and San Bernardino County border lines and the Angeles National Forest (inclusive). It excludes the Cities of Lancaster and Palmdale.

The Department offers the following comments and recommendations to assist the County in avoiding or minimizing potential project impacts on biological resources:

Specific Comments

1. Sensitive Biological Resources. The NOP describes the project site as including the unincorporated portions of Los Angeles County within the Antelope Valley (West Mohave

Desert). The West Mohave Desert includes ecosystems unique to Los Angeles County. These fragile ecosystems of the West Mojave Desert and associated ecological transition zones contain areas of high biological diversity. These areas are easily disturbed by human activities and may never recover. These ecosystems have already sustained significant loss and degradation within the planning area. A stated goal of the project is to reduce density to protect biological resources within the planning area. This continued incremental and landscape level impacts to biological resources within the planning area could be considered a substantial adverse impact to the fragile ecosystems of the Mohave Desert.

- a. One stated objective of the project is preserve the sensitive resources of the West Mohave by minimizing density in sensitive areas. The continued losses of sensitive biological resources in the planning area from County regulated and unregulated activities may make mitigation for these impacts more difficult in the future. Mitigation for impacts to sensitive resources is likely to be problematic considering the finite area of remaining intact habitat in the planning area and the inherent expense and difficulty of restoring desert vegetative communities as a mitigation measure. Mitigation that includes restoration is an intensive option that may make avoidance of sensitive habitats in the planning area a more feasible project approval option. The Department recommends this issue be addressed in the DPEIR.
- b. The DPEIR should identify the location of all sensitive biological resources. Understanding where sensitive biological resources are located in relation to activities regulated by the project will further assist the County in driving project policy measures that avoid impacts to these resources.
- c. Areas outside County designated Significant Ecological Areas (SEA) may also support special status biological resources and should not be exempt from further environmental review as is the case for agricultural uses. The Department recommends that the project recognize and consider impacts to biological resources in the project area from agricultural practices by requiring additional review.
- d. Of particular concern to the Department within the planning area is the continued degradation of habitat for biological resources including special status species and jurisdictional waters that are protected under State and federal law. These resources are adversely impacted by agricultural related activities including but not limited to grazing, vegetation clearing, grubbing, and grading. The Department is concerned that agricultural practices presently do not appear to be effectively regulated by the County in a manner that is compatible with the sustainability of biological resources in the planning area.
- e. The Department is concerned about the grazing of livestock within planning areas that support fragile ecosystems including public natural open space. The Department recommends that the project address livestock grazing in a manner that is protective of biological resources within the planning area. This could include the enforcement of existing laws pertaining to grazing and the establishment of new regulatory remedies through the project design.
- f. The Department recommends surface and groundwater uses within the planning area be addressed in the project in order to include measures that are protective to biological

resources that are dependent on these resources. Project should be required to set aside a portion of the project's water resources for fish and wildlife purposes.

2. Best Management Practices. The Department recommends that the project address measures to protect biological resources when considering solar and wind development approvals in the Antelope Valley. On a regional level, and as part of the State's commitment to SB 32, the Department is working with stakeholders (including local governments, environmental groups, and renewable energy developers) and other State and federal agencies to complete the DRECP). The purpose of the DRECP is to facilitate permit streamlining of renewable energy projects while providing a large-scale conservation strategy for the biological resources of the Planning Area, which includes the Mojave and Sonoran deserts of California. The portion of the Antelope Valley within the County is within the boundary of the DRECP planning area. The Department encourages the County to utilize current resources on the DRECP website (see website at www.drecp.org) drafted by the Renewable Energy Action Team (REAT). The REAT's founding members include the California Energy Commission, the Bureau of Land Management, the US Fish and Wildlife Service and the Department. The REAT developed the *Best Management Practices and Guidance Manual* ("BMP Guidance Manual", located on the website) to provide guidance to project proponents, which includes detailed measures to avoid, minimize, and mitigate impacts to sensitive species known to occur within the Planning Area. The Department recommends the County utilize the BMP Guidance Manual in its efforts to address impacts to biological resources from wind and solar projects.
3. Program EIR and Tiering. The NOP describes that the County has determined that a DPEIR will be prepared for the proposed project. The DPEIR will focus on the primary effects that can be expected to follow from adoption of the project and will not be as detailed as an EIR on the specific development or construction projects that may follow.

The Department recognizes that there are several advantages to a DPEIR, such as subsequent project activities within the scope of the PEIR would not require preparation of an additional environmental document (CEQA Guidelines, § 15168). Based on the large scale and scope of the project and anticipated preparation of a program EIR, the Department anticipates that additional environmental documents will need to be prepared and tiered from the EIR for certain subsequent project activities (CEQA Guidelines, §§ 15152 & 15162).

Establishing a procedure in the DPEIR for determining if subsequent project activities are within the scope of the EIR, or require an additional environmental document, will be critical to ensuring adequate analysis of project activity effects on biological resources. CEQA Guidelines section 15168 states: *[w]here the subsequent activities involve site-specific operations, the agency should use a written checklist or similar device to document the evaluation of the site and the activity to determine whether the environmental effects of the operation were covered in the program EIR.* Such a procedure and checklist, which could be used as a model, was recently developed for infill projects and can be found in CEQA Guidelines section 15183.3, which includes the requirement for the lead agency to file a Notice of Determination for each subsequent project activity.

The checklist should be accompanied by enough relevant information and reasonable inferences from this information to support each conclusion concerning biological resources.

For subsequent project activities that may affect sensitive biological resources, a site-specific analysis should be prepared, from which the supporting information would be derived (see additional guidance regarding site-specific analyses below). The checklist should cite the specific portions of the DPEIR, including page and section references, containing the analysis of the subsequent Project activities' significant effects and indicate whether it incorporates all applicable mitigation measures from the DPEIR.

The DEIR for the project should state that as soon as the Lead Agency (i.e., the County) has determined an additional environmental document will be required for a subsequent project activity, it shall consult with all Responsible and Trustee Agencies, including CDFW, to obtain recommendations as to whether an additional EIR or negative declaration should be prepared (CEQA Guidelines, § 15063).

General Comments

To enable the Department to adequately review and provide comment from the standpoint of the protection of biological resources, we recommend the following biological survey, impact assessment, avoidance, mitigation standards and principles are included in the DEIR for the project.

4. Project Description Alternatives.

- a) Project Description. A complete discussion of the purpose and need for, and description of, the proposed Project.
- b) Plan Alternatives. A range of feasible alternatives to the Project to ensure that alternatives to the proposed Project are fully considered and evaluated; the alternatives should avoid or otherwise minimize impacts to sensitive biological resources. Specific alternative locations should be evaluated in areas with lower resource sensitivity where appropriate.

5. Resources Assessment. The NOP characterizes the planning area as encompassing 1,800 square miles supporting various land uses including residential, industrial, open space, conservation, water, military, and public and semi-public. Specifically, the project will focus on areas referred to as Rural Town Areas, Rural Preserve Areas and Economic Opportunity Areas.

- a) Regional Setting. Per CEQA Guidelines, section 15125(c), information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis should be placed on resources that are rare or unique to the region.
- b) Sensitive Plants. A thorough, recent floristic-based assessment of special status plants and natural communities, following the Department's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (see <http://www.dfg.ca.gov/habcon/plant/>). The Department recommends that floristic, alliance- and/or association-based mapping and vegetation impact assessments be conducted within the Project area. The Manual of California Vegetation, second edition, should also be used to inform this mapping and assessment (Sawyer et al. 2008). Adjoining habitat areas should be included in this assessment where site activities could

lead to direct or indirect impacts off site. Habitat mapping at the alliance level will help establish baseline vegetation conditions.

- c) Sensitive Wildlife Species. An inventory of rare, threatened, and endangered, and other sensitive species on site and within the area of potential effect. Species to be addressed should include all those which meet the CEQA definition (see CEQA Guidelines, § 15380). This should include sensitive fish, wildlife, reptile, and amphibian species. Seasonal variations in use of the project area should also be addressed. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required. Acceptable species-specific survey procedures should be developed in consultation with the Department and the U.S. Fish and Wildlife Service.
 - d) California Natural Diversity Database. A current inventory of the biological resources associated with each habitat type on site and within the area of potential effect. The Department's California Natural Diversity Data Base in Sacramento should be contacted at www.wildlife.ca.gov/biogeodata/ to obtain current information on any previously reported sensitive species and habitat, including Significant Natural Areas identified under Chapter 12 of the Fish and Game Code. The Department recommends a 9 quad search around the project vicinity to identify potential sensitive species within the Project area.
6. Impact analysis. To provide a thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts, the following should be addressed in the DEIR.
- a) Impacts to Streams and Riparian Habitat. The Department has responsibility for streams and riparian habitats. It is the policy of the Department to strongly discourage disturbance to wetlands or conversion of wetlands to uplands. All wetlands and watercourses, whether intermittent episodic or perennial, should be retained and provided with substantial setbacks which preserve the riparian and aquatic values and maintain their value to on-site and off-site wildlife populations.
 - i) Lake and Streambed Alteration Agreement. The Department also has regulatory authority over activities in streams and/or lakes that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of a river or stream, or use material from a streambed. For any such activities, the project applicant (or "entity") must provide written notification to the Department pursuant to section 1600 et seq. of the Fish and Game Code. Based on this notification and other information, the Department determines whether a Lake and Streambed Alteration Agreement (LSA) with the applicant is required prior to conducting the proposed activities. The Department's issuance of a LSA for a project that is subject to CEQA will require CEQA compliance actions by the Department as a Responsible Agency. The Department as a Responsible Agency under CEQA may consider the local jurisdiction's (lead agency) Environmental Impact Report for the project. To minimize additional requirements by the Department pursuant to section 1600 et seq. and/or under CEQA, the document

should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the LSA.¹

b) CESA-listed Species. The Department considers adverse impacts to a species protected by CESA, for the purposes of CEQA, to be significant without mitigation. As to CESA, take of any endangered, threatened, or candidate species that results from the project is prohibited, except as authorized by State law (Fish and Game Code, §§ 2080, 2085.) Consequently, any Project -related activity during the life of the Project will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, the Department recommends that the project proponent seek appropriate take authorization under CESA prior to implementing the project. Appropriate authorization from the Department may include an incidental take permit (ITP) or a consistency determination in certain circumstances, among other options (Fish and Game Code §§ 2080.1, 2081, subds. (b),(c)). Early consultation is encouraged, as significant modification to a project and mitigation measures may be required in order to obtain a CESA Permit. Revisions to the Fish and Game Code, effective January 1998, may require that the Department issue a separate CEQA document for the issuance of an ITP unless the project CEQA document addresses all project impacts to CESA-listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA ITP.

c) Direct Impacts. A discussion of potential adverse impacts from sediment-removal activities, staging areas, lighting, noise, human activity, exotic species, and drainage should also be included. The latter subject should address. Mitigation measures proposed to alleviate such impacts should be included.

d) Indirect Impacts. Discussions regarding indirect Project impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands. Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in adjacent areas, should be fully evaluated in the DEIR.

e) Cumulative Impacts. A cumulative effects analysis should be developed as described under CEQA Guidelines, section 15130.

7. Mitigation for the Plan-related Biological Impacts. Impact analysis. To avoid, minimize or mitigate impacts to sensitive species within the Project area, the following measures should be considered for inclusion into the DEIR.

a) Avoid Impacts to Rare Natural Communities. The DEIR should include measures to fully avoid and otherwise protect Rare Natural Communities from project-related

¹A notification package for a LSA may be obtained by accessing the Department's web site at www.wildlife.ca.gov/habcon/1600.

impacts. The Department considers these communities as threatened habitats having both regional and local significance.

- b) Restoration and Protection of Land for Sensitive Species. The DEIR should include mitigation measures for adverse Project -related impacts to sensitive plants, animals, and habitats. Mitigation measures should emphasize avoidance and reduction of project impacts. For unavoidable impacts, on-site habitat restoration or enhancement should be discussed in detail. If on-site mitigation is not feasible or would not be biologically viable and therefore not adequately mitigate the loss of biological functions and values, off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed.
- c) Long Term Management of Protected Lands. For proposed preservation and/or restoration, the DEIR should include measures to perpetually protect the targeted habitat values from direct and indirect negative impacts. The objective should be to offset the Plan-induced qualitative and quantitative losses of wildlife habitat values. Issues that should be addressed include, but are not limited to, restrictions on access, proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, and increased human intrusion.
- d) Nesting Birds. The Department recommends that measures be taken to avoid impacts to nesting birds during the implementation of the Project. Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (Title 50, § 10.13, Code of Federal Regulations). Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA). Proposed activities (including, but not limited to, staging and disturbances to native and nonnative vegetation, structures, and substrates) should occur outside of the avian breeding season which generally runs from February 1- September 1 (as early as January 1 for some raptors) to avoid take of birds or their eggs. If avoidance of the avian breeding season is not feasible, the Department recommends surveys by a qualified biologist with experience in conducting breeding bird surveys to detect protected native birds occurring in suitable nesting habitat that is to be disturbed and (as access to adjacent areas allows) any other such habitat within 300 feet of the disturbance area (within 500 feet for raptors). Project personnel, including all contractors working on site, should be instructed on the sensitivity of the area. Reductions in the nest buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors.
- e) Habitat Restoration Plans. Plans for restoration and revegetation should be prepared by persons with expertise in southern California ecosystems and native plant revegetation techniques. Each plan should include, at a minimum: (a) the location of the mitigation site; (b) the plant species to be used, container sizes, and seeding rates; (c) a schematic depicting the mitigation area; (d) planting schedule; (e) a description of the irrigation methodology; (f) measures to control exotic vegetation on site; (g) specific success criteria; (h) a detailed monitoring program; (i) contingency measures should the success criteria not be met; and (j) identification of

the party responsible for meeting the success criteria and providing for conservation of the mitigation site in perpetuity.

We appreciate the opportunity to comment on the referenced NOP. Questions regarding this letter and further coordination on these issues should be directed to Scott Harris at (626) 797-3170 or scott.p.harris@wildlife.ca.gov.

Sincerely,



Betty J. Courtney
Environmental Program Manager I
South Coast Region

cc: Ms. Erinn Wilson, CDFW, Los Alamitos
Ms. Kelly Schmoker, Laguna Niguel
Mr. Scott Harris, Pasadena
Scott Morgan, State Clearinghouse

References

Keeler Wolf, T. and J. Evens. 2006. Vegetation classification of the Santa Monica Mountains National Recreation Area and environs in Ventura and Los Angeles counties, California. Unpublished Report to the National Park Service. California Department of Fish and Game and California Native Plant Society, Sacramento CA.